

UNITED STATES DISTRICT COURT

# DISTRICT OF NEVADA

## STEVEN CITY BROOMFIELD,

Case No. 3:19-cv-00743-GMN-WGC

v.

JOHN KEAST et al.,

Plaintiff,

## THREE STRIKES ORDER

## Defendants.

## I. DISCUSSION

Plaintiff is a prisoner proceeding *pro se*. On December 13, 2019, Plaintiff submitted a civil rights complaint pursuant to 42 U.S.C. § 1983 and an application to proceed *in forma pauperis*. (ECF Nos. 1, 1-1). However, on at least three (3) prior occasions, the Court has dismissed civil actions commenced by Plaintiff while in detention for failure to state a claim upon which any relief may be granted.<sup>1</sup>

Pursuant to 28 U.S.C. § 1915(g), “if [a] prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted,” he may not proceed *in forma pauperis* and, instead, must pay the full \$400.00 filing fee in advance unless he is “under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

In his complaint, Plaintiff appears to allege that prison officials retaliated against him in 2018 for using the grievance system. (See generally ECF No. 1-1). The Court finds that these allegations fail to plausibly allege that Plaintiff is in imminent danger of serious physical injury. See *Andrews v. Cervantes*, 493 F.3d 1047, 1055-56 (9th Cir. 2007) (holding that the exception to § 1915(g) applies if the complaint makes a plausible

<sup>1</sup> See *Broomfield v. Baca*, 3:18-cv-00223-MMD-WGC (dismissed for failure to state a claim on July 25, 2019); *Broomfield v. Aranas*, 3:18-cv-00184-MMD-WGC (dismissed for failure to state a claim on August 12, 2019); *Broomfield v. Aranas* (dismissed for failure to state a claim on September 3, 2019); and *Broomfield v. Aranas* (dismissed for failure to state a claim on December 20, 2019). The Court takes judicial notice of its prior records in the above matters.

1 allegation that the prisoner faced an ongoing danger of serious physical injury at the time  
2 of filing). As such, Plaintiff must pre-pay the \$400.00 filing fee in full.

3 **II. CONCLUSION**

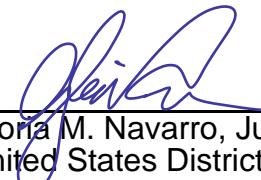
4 For the foregoing reasons, it is ordered that Plaintiff's application to proceed *in*  
5 *forma pauperis* (ECF No. 1) is denied.

6 It is further ordered that this action will be dismissed without prejudice unless  
7 Plaintiff pays the \$400.00 filing fee in full within thirty (30) days of entry of this order.

8 It is further ordered that the Clerk of the Court shall send Plaintiff two copies of this  
9 order. Plaintiff shall make the necessary arrangements to have one copy of this order  
10 attached to the check paying the filing fee.

11 It is further ordered that the Clerk of the Court shall retain the complaint (ECF No.  
12 1-1) but will not file it at this time.

13 DATED THIS 16 day of March 2020.

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16 Gloria M. Navarro, Judge  
17 United States District Court

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